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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,611

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EXAMINER

AMIRI, NAHID

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

01/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,611	Applicant(s) OSSBAHR, GILBERT	
	Examiner NAHID AMIRI	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In view of Applicant's Amendment received 2 October 2008, amendments to the claims have been entered. Claims 4 and 7 are canceled. Claims 1-3, 5 and 6 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1-3, 5 and 6, it should be noted that the preamble of claim 1 sets forth only a system subcombination, with the intended use of being for detachably joining at least first and second beams of rectangular cross-section. As initially set forth, the elements of the combination, i.e., the beams, are not positively included in the claims. However, claim 1, lines 15-16, now positively include the elements of the combination (e.g., "every surface of the beams..."). Accordingly, it is now unclear as to whether the combination or subcombination is being claimed. For this Office action, it is presumed that only the subcombination is being claimed, especially since the subcombination is the invention that was originally presented by applicant and acted upon by the examiner. Appropriate correction to the claims to remove the positive inclusion of the beams is required.

Claim Rejections - 35 USC § 102

Art Unit: 3679

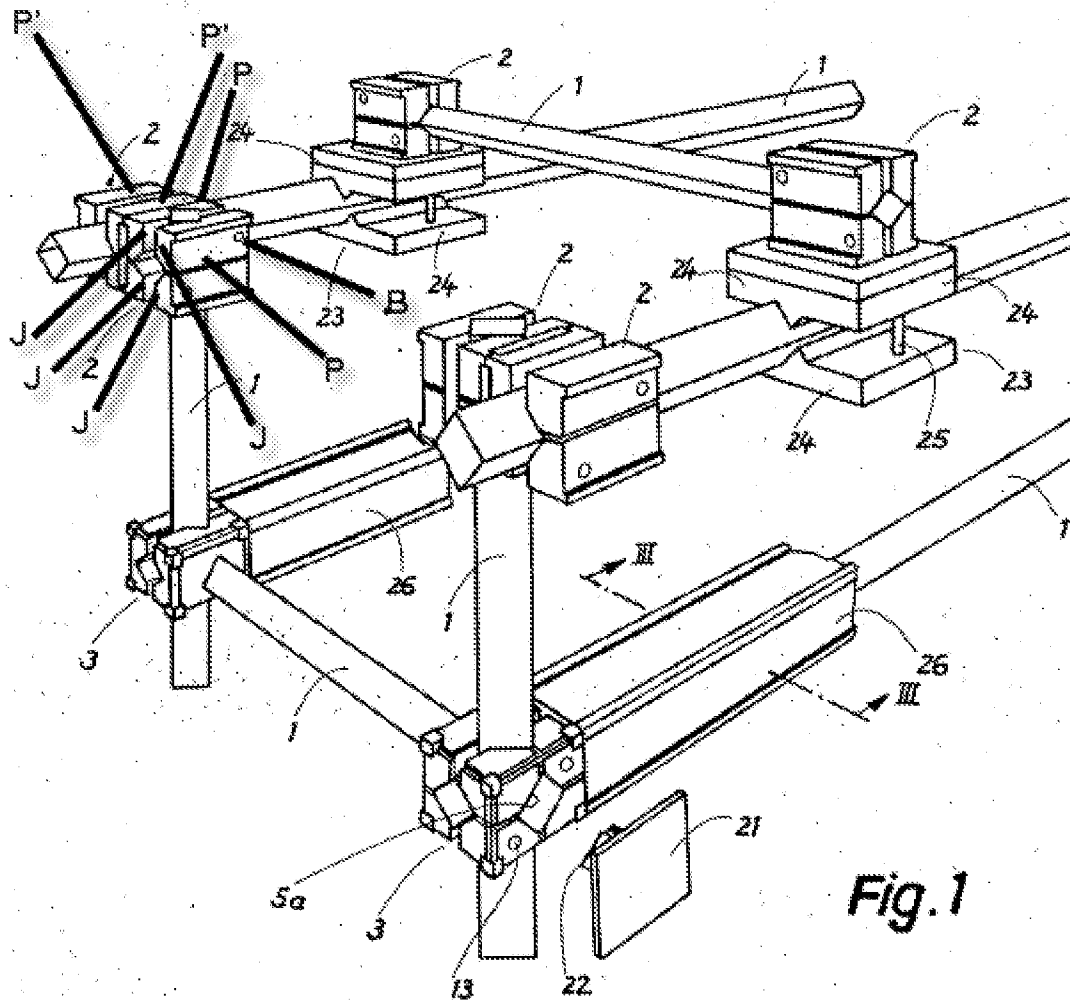
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Patent DE 3736266 A1 Neff et al.

With respect to claim 1, Neff et al. disclose a system (Fig. 1) for detachable joining of at least first and second beams (1) of rectangular cross-section comprising for each said first beam (1) to be joined, a first pair of fixing plates (P) mountable on opposite sides of a said first beam (1) and fixable along said first beam by friction maintained by tightening bolts (B), each one of the fixing plates (P) comprising an inner surface adapted to face said first beam (1), and outer surface, which is adapted to face away from said first beam (1), for said second beam (1) to be joined, a second pair of fixing plates (P') mountable on opposite sides of said second beam (1) and fixable along said second beam by friction maintained by tightening bolts, each one of the fixing plates (P') comprising an inner surface adapted to face said second beam (1), and an outer surface, which is adapted to face away from said second beam (1), the outer surface of said first pair of fixing plates (P) being bearable against the outer surface of said second pair of fixing plates (P') when said first and second beams are arranged to be joined in perpendicular or parallel directions, whereby every surface of the beams is parallel to every other surface, the relative positions of said first and second pairs of fixing plates (P, P') being fixed by locking elements (constituted by nuts not shown) in recesses in said outer surfaces of the said first and second fixing plates (P, P') said locking elements also anchoring the tightening bolts (B).



With respect to claim 3, Neff et al. disclose (Fig. 1) that the each fixing plate (P, P') comprises projections (J) arranged at each corners of the fixing plate (P, P').

Claim Rejections - 35 USC § 103

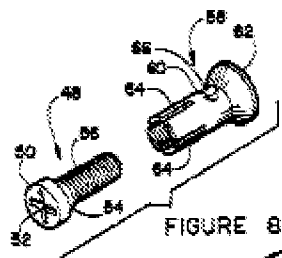
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3679

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neff et al. as applied to claims 1 and 3 above, and further in view of US Patent No. 5,873,564 Bisch.

With respect to claims 2 and 6, Neff et al. fail to disclose that the locking elements are made of inner threaded sleeves; and wherein the sleeves have longitudinal slots. Bisch teaches a system (Fig. 8) including a tightening member is bolt (48); and a locking element (58) having a threaded sleeve (60) with a longitudinal slot (64). It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the system of Moss et al. with a bolt and threaded sleeve with a longitudinal slot as taught by Bisch in order to create a rigid connection between two members.



With respect to claim 5, Neff et al. fail to disclose the provision of wedges, extending from the projections, that are arranged to fix the position of the beams in a transverse direction in the friction joint to achieve a shape determined locking of the beams. The use of wedges is notoriously well known in the art per se to take up play between two members and provide a secure/tight connection between the two members and Official Notice of this is taken. Accordingly, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the projections of Neff et al. to provide them with wedges in order

to take up any play between two plate members and ensure a tight fit even when receiving a beam with smaller cross-section.

Response to Arguments

Applicant's arguments filed 2 October 2008 have been fully considered but they are not persuasive.

Applicant provides general remarks alleging that claim 1 is now patentable because the present invention specifically refers to "fixing plates" which beams of rectangular cross section will be joined flat on and not tilted up on edge as shown in Neff et al. Further, Applicant argues that the Neff et al construction appears to attempt to exploit the increased bending moment available by putting the beams on edge. Therefore, it is impossible to join together smaller and larger beams of rectangular cross section in many different combinations using a limited number of fixing plate and to arrange all of the beam surfaces are either parallel or orthogonal to every other surface. Finally, it is indicated that depending claims 2, 3, 5, and 6 are patentable as a result of their direct dependency to claim 1. This is not persuasive.

In response to Applicant's argument regarding intended use, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Applicant is claiming only a fixing plate subcombination which Neff et al clearly disclose. No further structural recitations of the fixing plate system have been set forth by the "wherein" clause drawn to the otherwise not included beam elements.

Further, in response to Applicant's argument that the reference does not include certain features of Applicant's invention, (e.g., to join together smaller and larger beams of rectangular cross section in many different combinations using a limited number of fixing plate and to arrange all of the beam surfaces are either parallel or orthogonal to every other surface), the limitations on which the Applicant relies are not included in the claims and therefore Applicant's arguments are not commensurate with the scope of the claims. Finally, if Applicant concern

about how the fixing plates interact with the beams then it would appear that he should positively claim the beams in combination with the fixing plate in order to define some specific relationship that may serve to overcome the prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on Monday through Thursday from 8:00-6:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 3679

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nahid Amiri
Examiner
Art Unit 3679
December 26, 2008

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679